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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re D.G., a Person Coming Under the
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

N.G.,

Defendant and Appellant.

E056005

(Super.Ct.No. SWJ004434)

OPINION

APPEAL from the Superior Court of Riverside County. John M. Monterosso,
Judge. Affirmed.

Shobita Misra, under appointment by the Court of Appeal, for Defendant and
Appellant.

Pamela J. Walls, County Counsel, Anna M. Deckert, Deputy County Counsel, for
Plaintiff and Respondent.

No appearance for Minor.

D.G. (minor; born April 2004) first came to the attention of the Riverside Department of Social Services (the department) in March 2005, when the department received a referral reflecting general neglect due, in part, to the abuse of prescription drugs by defendant and appellant N.H. (mother) for which she did not have prescriptions. The juvenile court detained minor and placed him with the paternal aunt (PA). In June 2005, the juvenile court returned minor to the custody of mother under a family maintenance plan.

Minor was taken into protective custody again on September 15, 2005, when mother was taken to the hospital due to her abuse of non-prescribed medications. Mother relapsed again in February 2006. Nonetheless, the juvenile court returned minor to mother's custody on May 31, 2006, under the department's continued supervision. Mother subsequently tested positive for controlled substances on three occasions and admitted using. On July 30, 2007, the juvenile court terminated the dependency proceedings.

On August 2, 2010, the department received another referral regarding general neglect due to mother's abuse of prescription drugs. The department placed minor in protective custody with PA on August 24, 2010. On March 22, 2011, the juvenile court authorized the return of minor's custody to mother upon her expected future completion of family maintenance services. In March 2011, mother was twice transported to the hospital due to her abuse of prescription drugs. On November 2, 2011, the juvenile court terminated reunification services and set the selection and implementation hearing.

On February 27, 2012, mother filed a JV-180 petition requesting a return of minor to her custody or reinstatement of reunification services. On March 16, 2012, the juvenile court held a combined Welfare and Institutions Code sections 388 and 366.26 hearing in which it denied mother's petition and terminated mother's parental rights.¹ Mother appeals, contending the juvenile court abused its discretion in denying her JV-180 petition and in finding the beneficial parental relationship exception to termination of parental rights did not apply. We affirm the judgment.

FACTUAL AND PROCEDURAL HISTORY

On March 22, 2005, the department received a 10-day response referral alleging general neglect. Minor's father R.G. (father)² was in treatment for drug addiction; mother was "strung out" on drugs; the home was in a deplorable condition; minor was left alone crying for a bottle in soiled diapers. On April 7, 2005, a social worker made an unannounced visit. The social worker was initially denied entry to the home, but spoke with mother's oldest child, C.H. (born July 1991). C.H. told the social worker there were five adults and three children in the home; all the adults in the home were constantly taking Soma or Vicodin; no one in the home properly cared for her or her younger siblings, minor and B.H. (born July 1995) (collectively, "minors"). C.H. reported that "she is responsible for caring for [minor five] to [six] times a week."

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

² Father is not a party to this appeal.

The social worker was eventually invited into the home. She found the home in an abhorrent state: it had plumbing problems and was filled with “trash, clothing, feces, roaches, cigarettes butts, paper, and other miscellaneous items.” Some of the adults admitted taking prescription medications, for which they could not produce prescriptions. Father reported mother was not caring for minors because she was ““strung out on drugs and always knocked out.”” In a follow-up conversation with C.H. on April 13, 2005, C.H. reported her mother had used Soma on four occasions since the social worker’s last visit. On April 18, 2005, the social worker received the results of a drug test taken by mother; mother tested positive for Valium.

On April 20, 2005, the department filed a section 300 petition alleging, with respect to mother, that she abused “prescription drugs as evidenced by her positive drug test for valium [for] which she does not have a prescription” (B-1), the home was in a deplorable condition (B-3), and mother endangered minors’ health and safety by allowing minors to reside with numerous adults who abused prescription drugs (B-4). On April 21, 2005, the juvenile court detained minors and placed them with PA.³

In the jurisdiction and disposition report filed May 10, 2005, the social worker reported C.H. would see mother taking more than five Soma pills at a time. Mother admitted taking Valium without a prescription 24 hours before minors were detained. Mother admitted a long-time addiction to pain medications starting when she was 18

³ The department physically placed minor in PA’s custody on April 18, 2005.

years old.⁴ In an addendum report filed June 6, 2005, the social worker noted PA's home was a suitable placement for minors. Mother had enrolled in all aspects of her case plan and appeared to be benefitting from the services; she had completed the parenting course.

On June 8, 2005, the department amended the petition to eliminate the B-4 allegation in its entirety, modified the B-3 allegation to note the home was in an "unhealthy condition," and changed the B-1 allegation to read the mother "has a history of abusing prescription drugs." At the jurisdiction and disposition hearing on June 8, 2005, the juvenile court found the allegations true, took jurisdiction of minors, removed C.H., but returned B.H. and minor to mother's care under the supervision of the social worker.

On September 19, 2005, the department filed a supplemental petition alleging mother "failed to benefit from five months of [s]ervices as evidenced by [mother's] continu[ed] . . . abuse [of] prescription medication resulting in . . . mother being transported to the hospital via ambulance due to overdosing[.]" Mother admitted taking several Soma pills on September 15, 2005, the date of the overdose incident.

In the supplemental detention report filed September 19, 2005, the social worker noted D.H. had been taken into protective custody on September 15, 2005, and placed in a licensed foster home. On the day of the overdose incident, responding police officers found a drawer in mother's room full of prescription drugs prescribed to father, who was

⁴ Mother (born July 1974) was 30 years old at the time of the initial detention.

away in rehabilitation. Mother stated she took the drugs because she felt overwhelmed taking care of minors; she said she was “entitled to one relapse.”

Mother had completed a substance abuse program on August 31, 2005, during which she tested negatively on four occasions. Mother had completed the parenting education program on May 30, 2005. On September 20, 2005, the juvenile court detained minor.

In the jurisdiction and disposition report filed October 3, 2005, the social worker noted father had back surgery on September 6, 2005; he was prescribed and filled a prescription for pain medication on September 14, 2005. Father immediately began abusing the pain medication; he contacted his counselor who said to go in for detoxification, which he did. Father admitted giving pills to mother after she continuously requested them. The social worker observed that the services the department offered did not appear to be effective or beneficial to mother.

On October 11, 2005, the juvenile court found the allegations in the amended petition true and formally removed minor from mother's custody. In a status review report filed November 15, 2005, the social worker recommended six months of continued reunification services. The department placed minor with PA again on September 30, 2005. After a supervised visit with minors on October 25, 2005, the social worker observed parents “demonstrated their parental role by redirecting the children, providing nurturance, and engaging the children in problem solving. Both parents demonstrated that they were knowledgeable about the children's developments, using age appropriate expectations and responding to the needs of the children, both physically and

emotionally. [Parents] held and hugged the children and provided them with emotional comfort.”

On December 7, 2005, the court ordered continued placement of B.H. and minor with PA, but authorized return of custody to mother upon her expected completion of services. The court observed mother’s progress was “substantial” and that she was “doing exceedingly well.” The court returned custody of C.H. to mother as a dependent of the court to be supervised by the social worker. The court found a “substantial probability that [minor] will be returned to the custody of [mother] if given additional services[.]” The court ordered an unsupervised Christmas visit.

In the May 11, 2006, status review report, the social worker recommended six more months of reunification services. On January 8, 2006, the social worker authorized weekly, two-hour unsupervised visits. On January 24, 2006, the social worker authorized weekly, full-day visits. On March 4, 2006, the social worker authorized weekly supervised overnight weekend visits.

Mother had several unexcused absences from counseling sessions. Mother admitted to relapsing on Vicodin on February 21, 2006. Mother tested positive for opiates on February 21, and March 1, 2006. On April 17, 2006, mother was terminated from the Family Preservation Program for falsifying 12-step meeting attendance sheets. Nonetheless, the social worker concluded mother had made progress since her relapse.

At the status review hearing on May 31, 2006, the court found mother successfully completed her reunification services; it returned minor to her care, but continued minor as a dependent of the court. The court discussed mother’s forged AA cards and positive

tests for opiates and observed, “this issue is not going to come up again. Because if it does and these children have to be removed again, the Court is going to be really hard pressed to return them, including [C.H.]. [C.H.] may have to pack her bags and live with dad, and the other children we might have to seek an adoptive home for them.”

In the status review report filed October 30, 2006, the social worker recommended six more months of services. Mother was discharged from the Riverside County Substance Abuse Program after two relapses. Mother admitted to using; she had tested positive three times, the last on June 26, 2006. Mother was currently in residential treatment with an expected completion date of November 13, 2006. An addendum report noted mother had completed her 90-day residential drug treatment program on November 12, 2006.

In an addendum report filed January 26, 2007, the social worker recommended six more months of services. At some point prior to August 30, 2006, mother moved out of the home at the insistence of the social worker until she had completed the residential treatment program. The new social worker would permit mother to return to the home after confirmation of mother’s participation in an aftercare program; as of January 24, 2007, mother had not enrolled in the aftercare program to which she had been referred.

At the annual review hearing on January 30, 2007, the juvenile court continued minor as a dependent of the court in mother’s custody. It ordered hair follicle drug testing for mother.

In a status review hearing report filed June 19, 2007, the social worker recommended the juvenile court terminate dependency proceedings. Mother’s hair

follicle tested negative for controlled substances, she had completed an aftercare substance abuse program, participated in NA/AA classes, and underwent individual counseling. The social worker noted mother had actively participated in all requisite programs. On July 30, 2007, the court terminated the dependency.⁵

On August 2, 2010, the department received a referral of general neglect alleging B.H. had not lived with mother in two years; mother called B.H., ordering her to return home; B.H. refused to return home because mother was a drug addict and unable to care for minor; mother called B.H. a “bitch” and “cunt.” B.H. told the social worker mother had an “ongoing prescription drug abuse” problem and never really sobered up. B.H. had been living on-and-off with her “adoptive god-grandfather” G.T. Mother admitted domestic violence between her and minor’s father with whom she no longer resided; mother now lived with B.H.’s father.

Mother tested positive for benzodiazepines. On August 24, 2010, mother was unable to produce a urine sample after waiting two hours at the testing center; the social worker requested a hair follicle drug test. Minor was placed in protective custody with PA on August 24, 2010.

On August 25, 2010, the department filed a reactivated juvenile dependency petition alleging, as to minor and mother, that mother abused prescription drugs (B-1), mother engaged in domestic violence with father in the presence of minor (B-3), and mother’s case history with the department (B-5). On August 26, 2010, the juvenile court

⁵ It is unclear from the record when mother was allowed to move back into the residence.

detained B.H. and minor. On September 21, 2010, the department amended the petition to strike the portion of the B-1 allegation that B.H. reported mother abused prescription medication.

At the jurisdiction and disposition hearing on September 21, 2010, mother waived reunification services as to B.H. upon condition that the court issue letters of guardianship to G.T.; the juvenile court did so and B.H.'s case was closed. As to minor, the juvenile court found the allegations true, sustained the petition, adjudged minor a ward of the court, ordered reunification services, and ordered mother to undergo a hair follicle drug test.

A status review report filed March 9, 2011, recommended returning minor to mother's custody with family maintenance services upon mother's compliance with mental health services, continued individual counseling, participation in a substance abuse aftercare program, and completion of four successful overnight and weekend visits with favorable home evaluations. The social worker noted mother was complying with reunification services. Mother's hair follicle tested negatively for controlled substances.

Mother had twice weekly visits with minor, which were deemed "appropriate." Minor was excited to see mother and appeared happy around her. Minor enjoyed seeing his parents and wished he could have longer visits with them. At one point, minor stated he wanted to go back and live with mother; however, on February 1, 2011, minor stated he wanted to see mother more, but not have overnight visits. At the six-month hearing on March 22, 2011, the juvenile court ordered return of minor to mother with family maintenance services upon mother's compliance with mental health services, continued

individual counseling, participation in a substance abuse aftercare program, and completion of four successful overnight and weekend visits with favorable home evaluations.

In a status review report filed August 25, 2011, the social worker recommend reunification services be terminated. The social worker noted B.H.'s father had plead guilty to and been convicted of four counts of sexual offenses against a child or children under the age of 14 years. Mother asked on several occasions if it would be a problem if B.H.'s father were around minor. Mother said she was torn between minor and B.H.'s father.

Mother had been diagnosed with Bipolar, ADD, and Panic and Anxiety Disorder. She had not been taking her prescribed medications because she was unable to afford them. Mother also reported not being able to afford to see her psychiatrist. Mother was discharged from counseling for noncompliance with the attendance policy; mother failed to show for an entire month and for the last two visits; mother lied to the social worker, saying that she was told by her therapist she did not need to continue attending counseling.

Mother relapsed "a few times during the last reporting period." Mother tested positive for Vicodin and Oxycodone on February 2, 2011. Mother's aftercare program subsequently recommended mother enroll in a higher level of treatment such as inpatient treatment; mother stopped attending aftercare thereafter. On March 25, 2011, PA dropped minor off at mother's home for his first scheduled overnight visit; mother was later found laying incoherent on the floor; PA had to come pick up minor; mother was

taken to the hospital and placed on a 72-hour mental health hold; mother admitted consuming around 10 Somas. Minor was “scared and crying.” After the incident, minor refused to spend the night with mother; he expressed anxiety about the episode, which his therapist noted had caused him emotional trauma. Mother said her relapse was due to being overwhelmed by the prospect of overnight and weekend visits. On March 29, 2011, mother was again taken to the hospital for an overdose; mother admitted taking two Somas.

On April 8, 2011, PA took minor to mother’s apartment for a visit; after 15 minutes, PA noticed mother’s speech was slurred, her eyes kept shutting, she could not maintain conversation, and did not interact with minor. Mother later testified she was just tired and lying down. On June 6, 2011, mother’s therapist reported mother appeared to be under the influence; her speech was slurred, she would only respond by nodding, and was unsteady; mother denied being under the influence. The unsupervised visitation ordered at the last hearing never took place due to mother’s relapses.

Nonetheless, mother visited with minor twice weekly for an hour and a half. The visits were deemed appropriate. Mother played with and engaged in physical activities with minor. Minor was excited to see mother and appeared happy around her.

The social worker ultimately noted, “[d]espite the fact that . . . mother completed most of the case plan required programs it appears she has not benefitted from services as evidenced by her continuing to be under the influence of substances on at least four different occasions[.]” The social worker observed minor “appears to be doing well and seems very happy in his current placement. . . . [Minor] is in a clean, supportive, loving

and safe environment where all his needs are being met.” Minor “happens to be placed with a relative caregiver who he has grown attached to and loves very much.”

In an addendum report filed October 27, 2011, the social worker reported that on a visit occurring on October 7, 2011, PA noticed mother’s speech was slurred, she walked unsteadily, and she fell to the ground twice. Minor stated mother ““was acting funny”” similarly to when she took pills. PA terminated the visit early. Mother denied being under the influence. The social worker ultimately concluded that “[t]hrough supervised visits . . . mother has had the opportunity to regain her son[’]s trust back and prove her sobriety to him but instead a few weeks ago she shows up to the visit under the influence[,] scaring the child again and only deepening and reinforcing his fears of going back with her.”

At the contested status review hearing held on November 2, 2011, the juvenile court found, “mother is abusing a controlled substance, whether it’s Soma or some other controlled substance. When looking at the descriptions of all of her past events which are believed to be relapses, those which are happening on October 7th are identical to those which happened in March. The only difference is there is no medical proof that she is currently using.” The juvenile court disbelieved mother’s assertion she was unable to get her prescribed medication particularly when she was able to obtain non-prescribed medications. The court terminated reunification services, set the section 366.26 hearing, and reduced visitation to once every other week.

On February 7, 2012, the department filed its status review report in which the social worker recommended terminating parental rights and establishing adoption as the

permanent plan. The department last placed minor with PA, the prospective adoptive parent, on August 23, 2010. Minor said he loved living with PA: “I love it here.” Minor “appeared happy and comfortable in the family home and with [PA].” Minor “has resided with [PA] off and on throughout his young life and she is the most consistent parental figure he has known.” Minor reported mother took “bad pills” and then falls down. He said he could tell when she was taking bad pills because she would fall down. Minor did not want to live anywhere other than with PA.

On February 27, 2012, mother filed a JV-180 form petition requesting return of minor to her custody with family maintenance services or, in the alternative, reinstatement of reunification services. She alleged a change in circumstances in the facts that she had begun a one-year, Family Preservation Court Program at Hemet Center for Change on August 29, 2011, prior to termination of her reunification services; she had participated in 57 “groups”; would be ascending to phase 3 of her program on March 1, 2012; drug tested randomly up to seven times a week; had tested negatively for drugs on 23 occasions; attended three NA/AA meetings a week; attended four sessions of individual therapy weekly; and had turned in 60 self-help meetings.

In an addendum report filed March 12, 2012, the social worker observed mother had drug tested negatively for the past six months. However, the social worker noted mother had neglected her mental health during the past six months. Mental health patients were normally required to be seen monthly to monitor or renew their medications; mother had last been seen on February 27, 2012, but prior to that had been

seen only on September 14 and April 12, 2011. Minor expressed that he would ““Never ever”” consider going home with mother. Minor wished to be adopted by PA.

At the contested, combined sections 388 and 366.26 hearing on March 16, 2012, mother testified she was currently enrolled in a parenting class. She visited all that she was allowed, twice monthly, since her reunification services were terminated, except for one cancellation. Minor tells her he loves her and wants to go home with her. Once when leaving a visit, minor hugged her and would not let go. Mother testified her clean date was March 29, 2011; she denied being under the influence in any of the subsequently described incidents.

The juvenile court found mother’s circumstances had changed. “[A]lthough, I have to say I don’t have total confidence in her sustained sobriety[.]” The court also acknowledged mother had attempted to blame at least one relapse on father; a fact that did not bode well for treatment. Nonetheless, the juvenile court found the petition and evidence in support of it was devoid of any evidence that mother’s requested relief was in the best interests of minor. The court observed minor and mother simply had bimonthly playful encounters in which minor did not look to mother for the care and comfort one would expect from a parent. The court found the requested relief was not in minor’s best interests and denied the petition.

The juvenile court likewise found that although mother and minor had playful, fun encounters, their bond was not such that it outweighed minor’s need for permanency: any “bond has already, if not broken completely, has been severed to some extent. There

isn't a special relationship that would apply here with regards to mom.” The juvenile court terminated mother's parental rights and ordered adoption as the permanent plan.

DISCUSSION

A. JV-180 PETITION

Mother contends the juvenile court abused its discretion in denying her JV-180 petition by finding the requested relief was not in minor's best interest. We hold the juvenile court acted within its discretion.

“The juvenile court may modify an order if a parent shows, by a preponderance of the evidence, changed circumstance or new evidence and that modification would promote the child's best interests. [Citations.] This is determined by the seriousness of the problem leading to the dependency and the reason for its continuation; the strength of the parent-child and child-caretaker bonds and the time the child has been in the system; and the nature of the change of circumstance, the ease by which it could be achieved, and the reason it did not occur sooner. [Citation.] After termination of services, the focus shifts from the parent's custodial interest to the child's need for permanency and stability. [Citation.] ‘Whether a previously made order should be modified rests within the dependency court's discretion, and its determination will not be disturbed on appeal unless an abuse of discretion is clearly established.’ [Citation.] The denial of a section 388 motion rarely merits reversal as an abuse of discretion. [Citation.]” (*In re Amber M.* (2002) 103 Cal.App.4th 681, 685-686.)

Section 388 can provide “an ‘escape mechanism’ when parents complete a reformation in the short, final period after the termination of reunification services but

before the actual termination of parental rights.” (*In re Kimberly F.* (1997) 56 Cal.App.4th 519, 528.) “Even after the focus has shifted from reunification, the scheme provides a means for the court to address a legitimate change of circumstances while protecting the child’s need for prompt resolution of his custody status.” (*In re Marilyn H.* (1993) 5 Cal.4th 295, 309.) However, the best interests of the child are of paramount consideration when a petition for modification is brought after termination of reunification services. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317.)

Here, although the juvenile court found changed circumstances, it still expressed doubt as to mother’s ability to remain sober. Thus, the court’s doubt bears on a determination of minor’s best interest. Minor was just over a year old when first placed in protective custody. Up until that time, minor lived in a home with five adults who were using and abusing prescription medications. C.H. reported no one took care of minors; C.H. reported that she was responsible for caring for minor much of the time. The home was in a deplorable condition. Thus, mother failed to establish much of a parental relationship with minor even prior to the initiation of dependency proceedings.

Minor lived with PA from April 18, 2005, to June 9, 2005, nearly two months, before being returned to mother’s custody. The department again placed minor in protective custody on September 15, 2005, just three months later. The department placed minor with PA again on September 30, 2005, where he remained until returned to mother on May 31, 2006, eight months later. The record is unclear precisely when the social worker directed mother to move out of the home due to her multiple relapses, but it is apparent it occurred at some time prior to August 30, 2006; thus, minor spent less than

three months in mother's custody. Mother was permitted to move back into the home at some point after January 26, 2007, once she had enrolled in a substance abuse aftercare program.

On August 23, 2010, the department again placed minor with PA, with whom he remained throughout the duration of the dependency proceedings, nearly 19 months at the time of the section 388 hearing on March 16, 2012. It is inferable from the record that B.H. was the reporting party for the referral to the department on August 2, 2010. B.H. reported mother had an ongoing prescription drug abuse problem and had never really sobered up even after termination of the previous dependency proceedings on July 30, 2007.

Mother relapsed multiple times during the pendency of the reactivated petition. Indeed, one of mother's relapses occurred in minor's presence during what was to be minor's first overnight visit with mother. Mother was incoherent on the floor and had to be taken to the hospital where she was placed on an involuntary 72-hour mental health hold. Whereas earlier minor had expressed a desire to return to mother's care, he became traumatized by the episode, expressed anxiety about the thought of returning to mother's custody, and refused overnight visits. Moreover, mother's excuse for the relapse, that she was overwhelmed at the prospect of overnight visits, certainly does not show it would be in the best interests of minor to be returned to her custody. Furthermore, even before the incident, minor expressed reluctance to engage in overnight visits.

On the other hand, minor's placement with PA was auspicious. With respect to PA, minor had "grown attached to and loves [her] very much." Minor "resided with [PA]

off and on throughout his young life and she is the most consistent parental figure he has known.” Minor stated he never wanted to live anywhere else; he wanted to be adopted by PA. Although minor may have spent more of his life in mother’s care, the quality of that care left much to be desired. Contrariwise, his long aggregated residence with PA, particularly in the last year and a half, was nurturing and beneficial. The juvenile court acted well within its discretion in determining minor’s best interests were served by the stability that continued long-term placement with PA provided.

B. BENEFICIAL PARENTAL RELATIONSHIP EXCEPTION

Mother contends that even if the court acted within its discretion in denying her JV-180 petition, insufficient evidence supports the court’s determination the beneficial parental relationship exception did not apply so as to warrant termination of her parental rights. We hold that substantial evidence supported the juvenile court’s order terminating mother’s parental rights.

Once reunification services have been terminated and a minor has been found adoptable, “adoption should be ordered unless exceptional circumstances exist” (*In re Casey D.* (1999) 70 Cal.App.4th 38, 51.) Under section 366.26, subdivision (c)(1)(B)(i) one such exception exists where “[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” The parent has the burden of proving termination would be detrimental to the child. (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1350; *In re Jerome D.* (2000) 84 Cal.App.4th 1200, 1207.)

“[I]t is only in an extraordinary case that preservation of the parent’s rights will prevail over the Legislature’s preference for adoptive placement.” (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350; see also *In re Casey D.*, *supra*, 70 Cal.App.4th at p. 51.) “We determine whether there is substantial evidence to support the trial court’s ruling by reviewing the evidence most favorably to the prevailing party and indulging in all legitimate and reasonable inferences to uphold the court’s ruling. [Citation.] If the court’s ruling is supported by substantial evidence, the reviewing court must affirm the court’s rejection of the exceptions to termination of parental rights [Citation.]” (*In re S.B.* (2008) 164 Cal.App.4th 289, 297-298.)

“[T]here is a rebuttable presumption that, in the absence of continuing reunification services, stability in an existing placement is in the best interest of the child, particularly when such placement is leading to adoption by the long-term caretakers. [Citation.] To rebut that presumption, a parent must make some factual showing that the best interests of the child would be served by modification.” (*In re Angel B.* (2002) 97 Cal.App.4th 454, 465.)

Here, for much the same reasons discussed *ante*, regarding mother’s petition for custody or further reunification services, mother failed her burden of proving termination of her parental rights would be detrimental to minor. As discussed above, it was in minor’s best interests that the custodial yo-yo between his consistently relapsing mother, and his stable nurturing placement with PA be ended. Minor had spent much of his life in the custody of his drug-addicted mother, who was unable to properly care for him. Mother failed to progress to unsupervised, overnight visits due to her abuse of

prescription medications—indeed, it was on her first scheduled such visit that she traumatized minor by her drug abuse, which compelled that she be taken to the hospital.

Minor had a close, loving relationship with PA. Although mother maintained regular twice monthly visitation with minor after termination of her reunification services, substantial evidence supported the court’s determination the visits were fun and playful, but not indicative of a special bond that outweighed the stability permanent placement with PA offered. Indeed, the evidence of mother’s pervasive abuse of prescription medications and incessant relapses support the court’s determination that any bond between mother and minor, if not already broken, had been severed to the extent the beneficial parental relationship exception did not apply. Thus, substantial evidence supports termination of mother’s parental rights.

Mother expositis both *In re Jeremy W.* (1992) 3 Cal.App.4th 1407 and *In re S.B.*, *supra*, 164 Cal.App.4th 289 in support of her contention insufficient evidence supports the court’s determination the exception did not apply. Both cases are distinguishable. In *Jeremy W.*, the appellate court held only that the juvenile court erred in failing to hold a hearing on the mother’s section 388 petition. (*Jeremy W.*, at pp. 1416-1417.) Here, the court held a hearing on mother’s petition. Thus, *Jeremy W.* is inapposite. In *S.B.*, the appellate court held the juvenile court erred in finding the beneficial parental relationship exception applicable to the father, whom the record showed the minor loved, missed, and wished to live with. (*S.B.*, at p. 298.) Here, the record demonstrates minor did not wish to even spend overnight visits with mother, let alone return to her custody. Thus, substantial evidence supports the juvenile court’s order.

DISPOSITION

The judgment is affirmed.

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MILLER
J.

We concur:

RAMIREZ
P. J.

KING
J.